

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

RICKKE LEON GREEN,)	
)	
Petitioner,)	
v.)	Case No. CIV-06-59-L
)	
JOHN WHETSEL, SHERIFF,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, appearing *pro se*, has filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

At the time of filing, Petitioner neither paid the required filing fee nor submitted a motion for leave to proceed *in forma pauperis*. Also, Petitioner's petition was not on the proper form. Consequently, an Order to Petitioner to Cure Deficiency was entered on January 24, 2006, giving Petitioner until February 18, 2006, to cure the deficiencies.

On February 10, 2006, Petitioner filed an "Application for Court Order Directing Jail Authorities to Process and Return *In Forma Pauperis* Forms." Petitioner claimed in this application that officials at the Oklahoma County Detention Center were not providing the financial information required for *in forma pauperis* motions and were throwing Petitioner's forms in the trash. This Court entered an Order on February 24, 2006, denying Petitioner's Application, but the Court *sua sponte* granted Petitioner an extension of time until March 13, 2006, within which to either pay the \$5 filing fee or file his motion for leave to proceed *in forma pauperis*. The Court further advised Petitioner that he could present a copy of the Court's order to the appropriate detention center officials, and if he was still unable to obtain the required financial information, the Court would, on appropriate motion by Petitioner, take

such further action as may be necessary to ensure Petitioner's access to the courts while at the same time ensuring that Petitioner meets his financial responsibility for this action.

As of this date, Petitioner has failed to comply with the Court's previous orders. Petitioner has not submitted a motion to proceed *in forma pauperis*, paid the \$5 filing fee, or submitted his petition on the proper form; nor has Petitioner filed a request for an extension of time to do so or sought other relief relating to the filing fee. Under these circumstances, it is recommended that the action be dismissed without prejudice to the filing of a new action. *See* LCvR3.2 and 3.3. If this recommendation is adopted, Petitioner's Application for Order Requiring Court Clerk to Mail Petitioner a Copy of the Habeas Petition [Doc. #7] should be denied as moot.

NOTICE OF RIGHT TO OBJECT

Petitioner is advised of his right to object to this Report and Recommendation. *See* 28 U.S.C. § 636. Any objections must be filed with the Clerk of the District Court by April 10th, 2006. *See* LCvR72.1. Petitioner is further advised that failure to make timely objection to this Report and Recommendation waives his right to appellate review of the factual and legal issues addressed herein. *Moore v. United States*, 950 F.2d 656 (10th Cir. 1991).

STATUS OF REFERRAL

This Report and Recommendation disposes of all issues referred by the District Judge in this matter.

ENTERED this 21st day of March, 2006.



VALERIE K. COUCH
UNITED STATES MAGISTRATE JUDGE